



Town of Tyngsborough
Planning Board
25 Bryants Lane,
Tyngsborough, Massachusetts 01879-1003
Office: (978) 649-2300 ext 115

APPROVED

Tyngsborough Planning Board Meeting Minutes May 19, 2005

Attachments:

1- Meeting Agenda.

Members Present: Mark H. Pease, Chairman Darryl Wickens, Vice-Chairman
Steven A. Nocco, Secretary
Caryn DeCarteret
Joyce M. Harrington (clerk)
John Boardman, Consulting Engineer

Members absent: John Forti

Meeting Purpose: To take action on agenda items (see attach agenda) and any other business brought before the Board.

7:00PM MEETING CALLED TO ORDER BY CHAIRMAN M. PEASE

M. Pease congratulated Caryn DeCarteret winning a 5-year seat in the May town election and also congratulated S. Nocco on the birth of his baby daughter.

7:05PM PUBLIC HEARING – REPETITIVE PETITION TO Z.B.A. - SALVATORE LUPOLI, DBA SAL'S KITCHEN REALTY, LLC INDUSTRIAL WAY AND WESTFORD ROAD.

M. Pease read the Legal Notice that appeared in the Lowell Sun April 5 and April 12, 2005.

Representing the applicant.

Sean Vasington – Hancock Associates and Attorney Douglas Hausler

Robert Fragala Units 7, 8, & 9 Westech Industrial Park
Concerned abutter is opposed to the application for Zoning Variances submitted by Salvatore Lupoli.

Since John Forti (voting member) was absent for this Hearing, M. Pease asked Mr. Hausler if he would like to continue ahead with the Public Hearing with only 4 members

DeCarteret Family

Comment: Wasn't that guy from Westech there?

voting or would he prefer to continue to the next available meeting. Mr. Hausler agreed to proceed with 4 members.

The following items were presented to the Board and further discussed.

- 1) The proposed use seeks to include restaurant, office and retail space.
- 2) The pizza restaurant will contain seating areas and take out, but will not have a drive-thru.
- 3) The building includes an office area for the pizza restaurant containing 900 square feet plus another retail use of 1,000 square feet, which is intended to be rented.

S. Nocco requested clarification of the proceedings involved once the Planning Board cast their vote. M. Pease clarified the proceedings by stating that *if* an affirmative vote was cast, the applicant would be allowed to go in front of Z.B.A. to request zoning variances required, if the applied for variances were approved by the Z.B.A., then the plan would need to come back to Planning Board for a Special Permit, *if* a negative vote was cast, the applicant would not be allowed to reapply for a period of **two** years. The Planning Board concluded that the petition to the Z.B.A. by Salvatore Lupolli, dba Sal's Kitchen Realty LLC was not repetitive in nature and gave its consent for the applicant to reapply to the Zoning Board of Appeals for variance(s) at the property on Westford Road shown on Assessors Map 21 as Parcel 2F, based on the above items.

DeCarteret Family

Comment: Joyce – can you check – can't remember is it 2 or 3 yrs?

Motion: S.Nocco to close the Public portion of the Hearing for Sal's Kitchen Realty, LLC.

Second: D.Wickens

Motion Carries: 4-Yes, 0-No, 1 Absent

Motion: D.Wickens The Planning Board found the following specific and material changes in the conditions upon which the previous unfavorable action was based.

- 1) The applicant is proposing a mixed-use restaurant / retail use project instead of a fast-food restaurant use.
- 2) The proposal would likely have a lower impact on traffic and increase safety at and around the site.

Second: S.Nocco

Motion Carries: 4-Yes, 0-No, 1-Absent

8:05PM CONTINUATION T.I.L.Q. 110-112 MASCUPPIC TRAIL – JUDITH FINAN,
DARLENE MATHESON AND W. SCOT MATHESON

The applicant submitted the following items to the Board for review:

1. Copy of electrical plan by a licensed electrician.
2. Copy of proposed Deed Restriction.
3. Revised Floor elevations.

The Board accepted the format of deed restriction presented.

8:15PM Planning Board member John Forti arrived. M. Pease gave him a brief review of items discussed previously.

C. DeCarteret asked Judith Finan if it would be possible to exchange the exercise room with the living room so that the layout would comply with the intent of the Zoning Bylaw. Ms. Finan agreed to the change.

Motion: **D.Wickens** to close the Public Portion of the Hearing for T.I.L.Q. for 110-112 Mascuppic Trail

Second: **J.Forti**

Motion Carries:

Motion: **D.Wickens** to approve the T.I.L.Q. for 110-112 Mascuppic Trail with the following conditions:

- 1) Is in harmony with the purpose and intent of this By-Law.
- 2) Will not be detrimental or injurious to the neighborhood in which it is to take place.
- 3) Is appropriate for the site in question.
- 4) Complies with all applicable requirements of this By-Law.

Conditions of the Special Permit:

- 1) The Temporary Independent Living Quarters containing approximately 550s.f. shall be constructed in accordance with the plans filed with the Planning Board, and signed by the applicants, on 23 May 2005. A copy of these plans is on file in the Planning Board office.
- 2) The electrical plans presented to the Board and approved by the Tyngsborough Electrical Inspector are implemented and approved (to contain two meters).
- 3) The fire alarm be upgraded to comply with the current regulations and standards pursuant to M.G.L Ch. 148, 527 CMR, and 780 CMR as defined by the Tyngsborough Fire Department in their letter to the Board dated May 5, 2005.
- 4) The deed restriction be recorded and a copy returned to the Planning Board.
- 5) All structures (in addition to the Temporary Independent Living Quarters) shown on the plan shall be constructed.

The Special Permit approval is also conditioned on the following items as stated in the Zoning By-Laws paragraph 4.15.40 paragraphs 2 – 5:

- 1) That the Special Permit becomes invalid upon the sale or transfer of the property.
- 2) That the primary dwelling be the principal residence of the property owner of record.
- 3) That the temporary independent living quarters be assimilated reincorporated or otherwise returned to its former residential use if vacant for a period exceeding six months.
- 4) That the Special Permit become immediately null and void upon the advertisement, listing, or other actions of which the intent is to market or solicit the living quarters as a rental unit.

Second: C.DeCarteret

Motion Carries: 4, Yes, 1-No, 0-Abstain

8:45PM CONTINUATION, SPECIAL PERMIT HEARING FOR WESTFORD ROAD PLAZA -FRANK SHEN

The Board reviewed the following open items with the applicant and received the following responses from the applicant.

1. Handicap ramps should be added to the sidewalks in front of unit 3 and at the end of the sidewalk north of unit 7, to ensure compliance with ADA requirements for “shortest accessible route of travel.”
The applicant will add.
2. The fire chief prior to construction should approve the final hydrant location.
The applicant will get approval from the Fire Department.
3. The water and sewer locations should be reviewed and approved by the approved by the appropriate departments prior to construction.
The applicant will get approval from Water and Sewer Department.
4. The landscaping plan does not comply with 3.10.49.1. Addition trees need to be providing along the southwest and northern edge of parking lot to ensure every space is within 30' of a tree.
The applicant will meet the By-Law requirement.
5. The landscaping plan does not comply with 3.10.49.2. An additional island and tree need to be provided in the interior parking area to ensure every space is within is within 30' of a tree. It appears on parking space could be removed for his purpose.
The applicant will meet the By-Law requirement.

6. The Landscaping plan should be revised to clarify the location of the plantings relative to the stockade fence at the southeast side of the property. It is unclear on which side of the fence they are proposed.

The applicant will put up a stockade fence.

Motion: S.Nocco to continue the Special Permit Hearing for Westford Road Plaza to June 2, 2005 @ 7:05PM

Second: D.Wickens

Motion Carries

Admin 1 APPLICATION FOR SUBDIVISION PLAN – WALTER ERIKSEN AND DOUG LEES, PE - SLEEPY HOLLOW / LAKEVIEW AVE.

The Board signed the Form D (Application for Approval of Definitive Plan).

Motion: S.Nocco to schedule the Hearing for Sleepy Hollow Subdivision for July 7, 2005 at 7:05PM

Second: C.DeCarteret

Motion Carries

Admin 2 BOND RELEASE DISCUSSION – NAVIN PATEL – DANFORTH ROAD

Mr. Patel was not present.

Continue to June 2, 2005

Admin 3 SPECIAL PERMIT – TRADER CIRCLE – GARAGE REPAIR SHOP – GEORGE O'BRIEN.

The Board had an informal review of a proposed site plan for a heavy equipment repair shop. This application will have to go in front of Z.B.A.

Admin 4 TBPW LLC – TESCO TYNGSBOROUGH BUSINESS PARK, ERIC BERARDGEN

M. Pease informed the Board that they were review the changes to the previously approved plan and take a vote to amend the new plans and copies of the plan on file

Motion: S.Nocco to amend the new plans and copies of the plan on file.

Second: J.Forti

Motion Carries

Admin 7 BILLS

The following bills were signed:

1. David E. Ross Associates
2. Lowell Sun.

Admin 6 APPROVAL OF MINUTES

There were no Minutes to approve.

Admin 5 PLANNING BOARD REORGANIZATION

Motion: **M.Pease** to elect the following members as Planning Board Officers and to the following positions:

D. Wickens to serve as Chairman, C. DeCarteret to serve as Vice Chairman, S. Nocco to serve as Treasurer, M. Pease to serve as Secretary and J. Forti to continue to serve as NMCOG liaison.

Second: **J.Forti**

Motion Carries

Motion: **J.Forti** to adjourn at 10:00PM

Second: **D.Wickens**

Motion Carries

Minutes taken and respectfully submitted by
Joyce M.Harrington – Planning Board Clerk